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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,707	01/04/2002	Jeffrey D. Kuczynski-Brown	GIC-655	4090
20028	7590	12/27/2005	EXAMINER	
Lipsitz & McAllister, LLC 755 MAIN STREET MONROE, CT 06468			JONES III, CLYDE H	
			ART UNIT	PAPER NUMBER
			2611	
DATE MAILED: 12/27/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/038,707	<b>Applicant(s)</b> KUCZYNSKI-BROWN, JEFFREY D.	
	<b>Examiner</b> Clyde H. Jones III	<b>Art Unit</b> 2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>04 January 2002</u> | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-11, 13-25, 27-29, 31-33, and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mobley et al. (US 5,708, 963) in view of Diehl et al. (US 5,173,589).

Regarding claims 1 and 15, Mobley discloses a system (fig. 5A) for management and collection of impulse pay-per-view (IPPV) data, comprising:

a headend controller (processing analysis and communications center 5 and direct broadcast satellite (DBS) accounting center 6);

a digital television terminal (IRD 2a and IRD 800 – fig. 8) in communication with said controller via a (DBS) network.

Mobley further discloses the terminal is polled by the headend controller (accounting center 6) to retrieve current IPPV data (subscription information services (SIS) data including IPPV data, conditional access data, viewing statistics data and so on; col. 9, line 44-col. 11, line 6 and col. 17, lines 8-14). Mobley even further discloses the current IPPV data is validated by the controller (col. 11, lines 6-42; and col. 16, lines 3-7 & lines 45-52; in which the headend can

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verify the legitimacy of received SIS data). Mobley further discloses updated IPPV data is sent from the controller to the terminal (col. 15, lines 38-43, in which new premium program offerings reads on the updated IPPV data and col. 17, lines 32-51; in which programming guide data, "barker" channel data, pay credit limits, subscriber keys reads on the updated IPPV data). Mobley further teaches the IPPV, conditional access, viewing statistics or other data may be stored in internal 801 and/or external memory 802 – fig. 8; col. 17, lines 5-13 & 22-30). Mobley also discloses IRD/transceiver authorization/identification data being stored in secure memories of the IRD to detect/stop pirated IRDs (col. 11, lines 8-14 & col. 16, lines 45-51).

However Mobley fails to disclose how memories of the IRD are secured and the following limitations:

- a smart card operatively associated with said terminal;

- wherein:

- said controller sends security information to the smart card via the terminal;

- authentication data based on said security information is computed by said smart card;

- the headend controller retrieves the authentication data;

- said current IPPV data is validated by the controller based on said authentication data; and

- updated IPPV data is sent from said controller to said smart card via said terminal.

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In an analogous art Diehl discloses:

a smart card (5 – the figure) operatively associated with said terminal (3);  
wherein:

said controller (broadcasting station) sends security information (encrypted information “I1” or specifically “X”) to the smart card via the terminal (col. 2, lines 43-47; in which X reads on security information because it is data that only allows selected users to access program content);

authentication data (“Y”) based on said security information is computed by said smart card (col. 2, line 63-col. 3, line 9);

the headend controller retrieves the authentication data (col. 3, line 18-22);

said current IPPV data (card process/action data related to the instant/current purchase/article, e.g., price or partial price amount of an ordered service) is validated by the controller based on said authentication data (col. 3, lines 4-9, 15-18, & 28-31); and

updated IPPV data (“ID” and “D”) is sent from said controller to said smart card via said terminal (col. 2, lines 42-52; in which data ID identifies the purchase item/characteristics of the purchase item and data D indicates the current time when the purchase item was sent to the smart card via the receiver 3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Mobley to include

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said controller sends security information to the smart card via the terminal;

authentication data based on said security information is computed by said smart card;

the headend controller retrieves the authentication data;

said current IPPV data is validated by the controller based on said authentication data; and

updated IPPV data is sent from said controller to said smart card via said terminal

as taught by Diehl for the advantage of providing secure processing of pay tv/authentication data (Diehl – col. 3, lines 5-9; Mobley - col. 16, lines 45-51) and for the advantage of assuring that the maximum number of viewers can place their instant/impulsive orders and that the orders are genuine (col. 3, lines 28-34).

Regarding claims 2 and 16, Mobley in view of Diehl disclose authentication data (Y) is derived from at least one of: said security information (reads on X; Diehl, col. 2, lines 52-53), and said IPPV data (reads on ID and D; Diehl col. 2, lines 48-52).

Regarding claims 3 and 17, said updated IPPV data is based on said validated current IPPV data (col. 17, lines 32-51; in which Mobley discloses the updating of program availability and provision of user requested programs and

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the turning off of pirate decoders in addition to polling, i.e., if data the polled data is validated, updated programs and user requested programs, e.g., IPPV programs, will be provided and if not validated the decoder will be turned off/updating will be unsuccessful; and Diehl – col. 3, lines 18-23; in which Diehl discloses the ordered article/service is sent after the current request/Y/IPPV data is validated by the headend).

Regarding claims 4 and 18, Mobley in view of Diehl disclose said smart card is one of: a re-issued smart card with non-zero IPPV data values (Diehl – col. 3, lines 15-16 & Mobley – col. 17, lines 34-41; in which Mobley in combination with Diehl teach updating (re-issuing) pay credit limits to a pre-paid (non-zero IPPV data value) smart card.

Regarding claims 5 and 19, temporarily disabling IPPV capabilities at the terminal until updated IPPV data is received by the terminal reads on the disabling of subscription services (IPPV capabilities) until the IRD 2/subscription service information of Mobley is validated and updated with programs/applications (IPPV data) as disclosed by Mobley in view of Diehl (Mobley - col. 11, lines 15-18; col. 16, lines 45-52; Diehl – col. 3, lines 18-23; in which the updated IPPV data/article/content is received before the IPPV content can be enabled).

Regarding claims 6 and 20, updated IPPV data is compared to an IPPV purchase amount to determine whether to allow an IPPV purchase reads on a purchase, e.g., an IPPV purchase, price being debited from the smart card and the remaining balance (if there is one) is compared to the IPPV purchase price so that the accounting center 106-Mobley may appropriately debit the user's billing account as taught by Mobley in view of Diehl (Diehl – col. 3, lines 23-27 & Mobley – col. 15, line 66 – col. 16, line 7; in which Mobley in view of Diehl teach comparing subscription information service data, i.e., updated IPPV data, to IPPV purchase amounts, i.e., cost or debit/credit values processed in the DBS accounting center, so that it may legitimate/allow the updated subscriber services/purchases of IPPV content/programs/data, provided to the user).

Regarding claims 7 and 21, Mobley in view of Diehl disclose a storage device associated with said terminal for storing said current IPPV data (reads on the smart card disclosed by Mobley in view of Diehl; IPPV data storage 801 – Mobley fig. 8 & smart card 5-Diehl, col. 2, lines 1-3).

Regarding claims 8 and 22, Mobley discloses reporting previously stored IPPV data values to the headend (accounting center 6 – fig. 5A/service provider) (col. 10, lines 31-41). Diehl further discloses reporting previously stored purchase data values (i.e., authentication data Y and remaining credit/debit values) from the previously used smart card to the headend/broadcast station at a later date than when the return line is available to charge the viewer's account

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(col. 3, lines 15-27). Mobley in view of Diehl obviate the limitation previously stored IPPV data values from a prior (previously used) smart card associated with said terminal are reported from said terminal to said headend for the reasons discussed above.

Regarding claims 9 and 23, Mobley discloses the construction of responses/messages of volunteered data and program/service selection return data (IPPV purchase report back message) (Mobley - col. 12, lines, 64-67; col. 10, lines 34-38; col. 10, line 59 – col. 11, line 1). Diehl further discloses reporting purchase data back to the headend/service provider at a later date or immediately at the time of a purchase, i.e., any purchase including an initial purchase, as a message indicating user selection of an impulse purchase (col. Diehl – col. 2, line 68-col. 3, line 5 & col. 3, lines 18-23). Mobley in view Diehl obviate the limitation construct a purchase report back message at said terminal at the time of an initial IPPV purchase for the same advantages as disclosed above in claim 1/15.

Regarding claims 10 and 24, Mobley teaches periodically/frequently reporting back purchase data/messages if the IRD report back buffer is full (col. 14, lines 18-21) and Diehl discloses reporting back at a later date if the return line is not available at the instant of a purchase (Diehl - col. 3, lines 18-21). Mobley in view of Diehl obviate the limitation update the purchase report back message at the time of each subsequent IPPV purchase after said initial purchase for the

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advantage of providing the accounting center with up-to-date information at subsequent purchase report backs.

Regarding claims 11 and 25, Mobley in view of Diehl disclose the headend controller periodically polls the terminal to retrieve the report back message (Mobley – col. 10, lines 38-43).

Regarding claims 13 and 27, Mobley in view of Diehl disclose the purchase report back message is stored at said terminal (Diehl col. 17, lines 8-13 & col. 14, lines 16-20; Mobley – col. 10, lines 34-41, col. 16, lines 24-30 & memory 801-fig. 8).

Regarding claims 14 and 28, Mobley in view of Diehl obviate the purchase report back message includes at least one of said current IPPV data, IPPV purchase (usage) data, and said authentication data (subscription information services (SIS) data including IPPV data, conditional access data, viewing statistics data and so on; Mobley - col. 9, line 44-col. 11, line 6 and col. 17, lines 8-14; Diehl – col. 3, lines 18-23)

Regarding claims 29 and 33, they are rejected with respect to claims 9 & 23, 10 & 24, and 11 & 25 above.

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Regarding claims 31 and 35, they are rejected with respect to claims 13 & 27 above.

Regarding claims 32 and 36, they are rejected with respect to claims 14 & 28 above.

3. Claims 12, 26, 30 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mobley et al. (US 5,708, 963) in view of Diehl et al. (US 5,173,589) and further in view of Cocchi et al. (US 2002/0112241 A1).

Regarding claims 12, 26, 30, and 34, Mobley inherently discloses overwriting the purchase report back message (response message) stored in memory 801/802 – fig. 8/message buffer with a new report back message after the poll because response message data stored in the buffer must be overwritten to provide additional space for new response data, i.e., SIS data stored/obtained after the poll (col. 14, lines 15-21 & col. 16, lines 24-30). Mobley in view of Diehl teach the purchase report back message is overwritten with a new purchase report back message after said poll.

Mobley in view of Diehl fail to disclose overwriting the purchase report back message at the time of a first IPPV purchase.

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In an analogous art Cocchi discloses overwriting the purchase report back message at the time of a first IPPV purchase after a report back freeing up memory in the smart card so the user may immediately begin purchasing additional goods (IPPV services) (pg. 5, par. 55, lines 1-9).

It would have been obvious to one of ordinary skill in the art to modify the system of Mobley in view of Diehl to include the limitation overwriting the purchase report back message at the time of a first IPPV purchase as taught by Cocchi for the advantage of enabling the user to immediately purchase additional IPPV services after the report back of viewer SIS data (Cocchi – par. 55, lines 6-8).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clyde H. Jones III whose telephone number is 571-272-5946. The examiner can normally be reached on 9-5:30 p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Grant can be reached on 571-272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJ



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